



# HOUSE OF REPRESENTATIVES

SB 1531/HB 2700

credit enhancement; budget reconciliation; 2016-2017.

Prime Sponsor: Senator Biggs, LD 12/Representative Montenegro, LD 13

---

**DP** Committee on Appropriations

**DPA** Caucus and COW

**X** As Transmitted to the Governor

---

## **OVERVIEW**

SB 1531 establishes the Arizona Public School Credit Enhancement Program (Program).

## **PROVISIONS**

### ***Credit Enhancement Eligibility Board***

1. Establishes the Credit Enhancement Eligibility Board (Board) consisting of the following:
  - a. The Governor or his/her designee.
  - b. The State Treasurer or his/her designee.
  - c. The Director of the Arizona Department of Administration or his/her designee.
2. Prohibits Board members from being eligible for compensation for services.
3. Establishes the Board as a public body and makes Board members public officers.
4. Establishes the Board as a body corporate and politic and permits the Board to have a judicially noticed official seal.
5. Outlines the powers and duties of the Board.
6. Directs the School Facilities Board (SFB) to provide staff, as requested, to support the Board.
7. Requires the Board to establish an application process, forms and selection criteria for a public school or charter school to qualify as an achievement district school.
8. Outlines the criteria for a public school or charter school to be eligible for achievement district school qualification.
9. Requires the Board to meet regularly to evaluate achievement district school applications, approve or deny each application and report its decision to the school within 10 days.
10. Qualifies schools whose application has been approved as an achievement district school and permits achievement district schools to participate in the Program.
11. Sunsets the Board on July 1, 2026.

### ***Public School Credit Enhancement Fund (Fund)***

12. Establishes the Fund and prescribes the monies that may be deposited in the Fund.
13. Directs monies and assets in the Fund to be held and disbursed separate from all other monies or assets of the state or political subdivisions.
14. Prescribes how the State Treasurer and the Board may expend Fund monies.

## **HB 2700**

15. Requires the State Treasurer to administer the Fund and disburse monies as required by law and as directed by the Board.
16. Directs the State Treasurer to separately account for monies received from each source and permits the establishment of accounts and subaccounts as necessary to account for monies in the Fund.
17. Prohibits received monies from being used for any purpose except guaranteeing or making payments of principal and interest on guaranteed financings of approved schools and any costs or expenses of the Program or Board.
18. Directs the State Treasurer to invest and divest monies in the Fund and instructs investment earnings to be credited to the Fund.
19. Exempts monies in the Fund from lapsing.

### ***Arizona Public School Credit Enhancement Program***

20. Establishes the Program to assist achievement district schools in obtaining more favorable financings by guaranteeing principal and interest payments on guaranteed financings by achievement district schools.
21. Directs achievement district schools to be considered for guaranteed financing by submitting an application to the Board and specifies the information that must be included in the application.
22. Directs the Board to regularly meet to evaluate applications and approve or reject each application.
23. Requires the Board to ensure that if an application is approved:
  - a. The program leverage ratio will not exceed three and one-half to one as a result of the approval of guaranteed financing; and
  - b. After 10 guaranteed financings have been approved by the Board, no more than 25% of the aggregate principal amount of guaranteed financings will be rated less than “BB-“ or a comparable rating by a nationally recognized bond rating agency.
24. Instructs the Board to report each application decision to the achievement district school within 10 business days.
25. Requires each charter school approved for guaranteed financing to pay an annual program participation fee of 0.25% of the outstanding principal amount of the guaranteed financing, as determined by the Board, as long as the financing is outstanding and each district school to pay a fee determined by the Board.
26. Requires program participation fees to be paid in equal amounts on the date that interest is due and payable to investors under the guaranteed financing or at other such time as required by the Board.
27. Requires program participation fees to be paid to the State Treasurer on behalf of the Program for deposit in the Fund.
28. Permits the terms and conditions of the Board in approving guaranteed financing to be set forth in a written agreement between the Board and school.

### ***Program Financing and Reporting***

29. Directs fiduciaries drawing from the Debt Service Reserve Fund to pay principal or interest on guaranteed financings to deliver written notice within 10 days to the Board and State Treasurer.
30. Requires fiduciaries to notify the Board and State Treasurer in writing at least five days before a debt service payment date on guaranteed financing if a school does not expect to make a timely payment of guaranteed financing after monies in a Debt Service Reserve Fund securing the financing are fully expended.
  - a. Directs the State Treasurer, within two business days, to pay the bank trustee, paying agent or other fiduciary from the Fund the amount solely for making the guaranteed financing payment.
31. Requires schools, if the State Treasurer makes a guaranteed financing payment for the school, to repay the amount of the payment plus interest at a rate of 100 Basis Points higher than the true interest rate on the guaranteed financing, as determined by the Board.
32. Directs repayment to be made in equal monthly installments over a 12 month or other period as determined by the Board.
33. Instructs repayment to be made to the State Treasurer for deposit in the Fund and determines outstanding repayment balances after the stated repayment period to become immediately due and payable.
34. Determines any repayment amount owed to the Fund that is not otherwise paid to remain a lawful obligation of the school and be paid from any other monies lawfully available to the school.
35. Directs the Board and Fund to be entitled to protections and remedies relating to the repayment amount, if any, from the Fund and the payment of program participation fees in exchange for the guarantee of the payments of guaranteed financing amounts for an achievement district school.
36. Provides protections and remedies, including:
  - a. The right to all or a portion of the proceeds from the sale or lease of property serving as collateral for guaranteed financing.
  - b. The right to intercept payments or monies otherwise payable to the school.
  - c. The right to insurance proceeds otherwise payable to the school.
37. Requires the Attorney General to take any actions necessary to enforce repayment of Fund monies by a school, on request of the Board.
38. Permits the Board to deliver nonnegotiable program funding obligations (PFO) in one or more series in an aggregate principal amount up to \$80 million.
  - a. Directs the Board to sell any PFOs to the State Treasurer and requires the State Treasurer to buy the PFOs as an allowable investment of the Fund.
  - b. Prohibits total principal amounts of outstanding PFOs from exceeding \$80 million.
  - c. Permits the Board to reissue to the State Treasurer called PFOs on the same terms as the PFOs that were called and in a principal that does not exceed the principal amount called.
39. Directs the Board to authorize each PFO by a resolution that sets forth specified information.
40. Sets the interest rate on PFOs at the sum of:
  - a. The actual rate of interest earned on the investment of the proceeds from the sale of the PFOs; and

- b. An additional interest rate of at least 100 Basis Points, as determined by the Board, for any period during which guaranteed financings are outstanding.
- 41. Requires the principal and interest of PFOs to be secured by and paid from monies deposited in the Fund on the terms of the resolution and be subordinate to payments necessary for guaranteed financings.
- 42. Directs principal payments to be paid on a proportional basis to the reduction in outstanding principal of guaranteed financings.
- 43. Directs interest to be paid on an annual or more frequent basis as set forth in the resolution.
- 44. Instructs monies pledged to PFOs to be immediately subject to the lien of the pledge without any future physical delivery or further act.
  - a. Directs a lien of any pledge to be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Board, irrespective of whether the parties have notice of the lien.
  - b. Stipulates that the resolution by which the pledge is created is notice to all concerned of the creation when placed in the Board's records.
- 45. Requires PFOs to be sold at private sale to the State Treasurer at a price and on terms provided by the Board in its resolution.
- 46. Directs the proceeds from the sale to be deposited into the Fund.
- 47. Establishes that PFOs are:
  - a. Special obligations of the Board.
  - b. Not general, special or other obligations of the state.
  - c. Not a legal debt of the state.
  - d. Payable and enforceable only from the monies and funds pledged and assigned by the Board in its resolution.
- 48. Exempts Board members or persons executing a PFO from personal liability of the payment of the PFO.
- 49. Excludes PFOs from the State Treasurer's determination of monies available for payment of warrants or electronic fund transfer vouchers.
- 50. Requires SFB, in collaboration with the Board, to submit a quarterly report within 30 days of the end of the quarter to the Speaker of the House of Representatives, the President of the Senate, the Director of the Joint Legislative Budget Committee and the Director of the Governor's Office of Strategic Planning and Budgeting on the implementation of the Program and outlines required information.
- 51. Sunsets the Articles containing the Program, the Board and the Fund on January 1, 2027, if the Board has no outstanding PFOs issued, or the Legislature has otherwise retired or paid for outstanding PFOs, and there are no outstanding guaranteed financings approved.
- 52. Determines that if the previous conditions are not met, the Articles sunset 30 days after the conditions to sunset are met.

***Miscellaneous***

- 53. Exempts the Board from rulemaking for two years after the effective date.
- 54. Transfers \$23.9 million from the Access Our Best Public Schools Fund to the Fund in Fiscal Year (FY) 2017.

## **HB 2700**

- 55. Repeals the Access Our Best Public Schools Fund.
- 56. Appropriates \$500,000 from the state General Fund (GF) in FY 2017 to SFB for one-time funding for transaction costs associated with the Program.
  - a. Exempts the appropriation from lapsing, except that remaining unexpended and unencumbered monies on June 30, 2018, revert to the GF.
- 57. Declares the Legislature's intent to assist public schools in obtaining more favorable financing.
- 58. Defines terms.
- 59. Makes technical and conforming changes.